HCS SS#2 SCS SBs 199, 417 & 42 -- JUDICIAL PROCEEDINGS

SPONSOR: Dixon (Cornejo)

COMMITTEE ACTIONS: Voted "Do Pass with Amendments" by the Standing
Committee on Civil and Criminal Proceedings by a vote of 9 to 1.
Voted "Do Pass with HCS" by the Select Committee on Judiciary by a
vote of 7 to 3.

This bill allows the circuit court of Jackson County to establish
the Armed Offender Docket Pilot Project. The docket must have
dedicated judges and other personnel for specified types of crimes.
The circuit court may impose a $30 surcharge for each criminal case
assigned to the docket to be used solely to defray the costs of
prosecution, pretrial supervision, and statistical analysis of the
cases. A surcharge must not be collected if the proceeding or the
defendant has been dismissed by the court or if costs are to be
paid by the state, county, or municipality. Within six months
after each anniversary of the creation of the docket, the circuit
court must provide and publish a report on the operations of the
docket during the year immediately preceding the anniversary,
including any commentary on the operations as may be offered by a
research university in Missouri, prosecuting attorney or public
defender in the circuit, or law enforcement agency in the circuit.
Any information that is protected from disclosure by a privilege
or statute must be disclosed only by court order or as provided by
statute.

An individual who is occupying private property under the authority
of the property owner must be permitted to use deadly force in
specified situations.

Currently, the use of any physical force when making an arrest is
not justified unless the arrest is lawful or the officer reasonably
believes the arrest is lawful. The bill specifies that the use of
any physical force when making an arrest is also not justified
unless the amount of force used was objectively reasonable in light
of the totality of the particular facts and circumstances
confronting the officer on the scene, regardless of the officer's
underlying intent or motivation.

Currently, a law enforcement officer is justified in using deadly
force in effecting an arrest or in preventing an escape from
custody when he or she reasonably believes the force is immediately
necessary to effect the arrest or prevent an escape from custody
and reasonably believes the suspect has committed or attempted to
commit a felony, is attempting to escape by use of a deadly weapon,
or may otherwise endanger life or inflict serious physical injury
on another person unless arrested without delay. The bill allows a

law enforcement officer to use deadly force in effecting an arrest or preventing an escape from custody when the officer reasonably believes that the use of deadly force is immediately necessary to make the arrest or prevent an escape from custody and reasonably believes that the person has committed or attempted to commit a dangerous or violent felony or a felony involving the infliction or threatened infliction of serious physical injury, is attempting to escape by use of a deadly weapon or dangerous instrument, or may otherwise endanger life or inflict serious physical injury to the officer or others unless arrested without delay.

The provisions of the bill regarding the Armed Offender Docket Pilot Project will expire on December 31, 2021.

The provisions of the bill regarding the use of deadly force contain an emergency clause.

PROPONENTS: Supporters say that there is a gap in protection because victims of excessive force by the government cannot sue under Missouri's, often broader, constitution. The bill will bring consistency and clarity to the law.

Testifying for the bill were Senator Dixon and Matt Selby, Missouri Association of Prosecuting Attorneys.

OPPONENTS: There was no opposition voiced to the committee.

OTHERS: Others testifying on the bill say that the ACLU supports more causes of action against the government. However, the ACLU believes that certain provisions of the bill are ineffective and utilize incorrect standards.

Testifying on the bill was ACLU of Missouri.